

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File Number EB-02-OR-360
)	
Pittman Broadcasting Services, LLC)	NAL/Acct. No.200332620006
Licensee of Broadcast Stations KAOK(AM), Lake)	
Charles, Louisiana, and KAOK-FM, ¹ DeRidder,)	FRN 0006-1569-21
Louisiana)	
Covington, Louisiana		

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: February 14, 2003

By the Enforcement Bureau, New Orleans Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find Pittman Broadcasting Services, LLC (“Pittman Broadcasting”), licensee of radio stations KAOK(AM), Lake Charles, Louisiana, and KAOK-FM, DeRidder, Louisiana apparently liable for a forfeiture in the amount of fifteen thousand dollars (\$15,000) for willful violation of Sections 11.35(a) and 73.49 of the Commission's Rules (“Rules”).² Specifically, we find Pittman Broadcasting apparently liable for failing to maintain operational Emergency Alert System (“EAS”) equipment and failing to provide an effective locked fence enclosing the AM station’s antenna tower.

II. BACKGROUND

2. On December 3, 2002, an agent from the FCC Enforcement Bureau’s New Orleans Office inspected the co-located studio of co-owned broadcast stations KAOK(AM) and KAOK-FM in Lake Charles, Louisiana. The stations’ EAS equipment was not functioning because the encoder/decoder unit was not connected to any receivers in order to monitor an incoming alert signal. Station personnel were unable to produce any station logs noting EAS tests sent or received, or any notation that the unit had been removed from service for repair. The stations’ general manager stated that the stations had neither received nor conducted EAS tests for the past two months since the studio was placed in operation. In addition, an inspection of the AM station’s antenna tower, which has radio frequency potential at the base, revealed that it was not enclosed within an effective locked fence or other enclosure. No fence was installed near the tower. The property did have a perimeter fence on three sides, however, the entrance from the main road had no fence or other enclosure to prevent access to the antenna tower.

III. DISCUSSION

¹ The call sign for KAOK-FM was changed to KQLK effective February 3, 2003.

² 47 C.F.R. §§ 11.35(a) and 73.49.

3. Section 11.35(a) of the Rules states that broadcast stations and cable systems and wireless cable systems are responsible for ensuring that EAS Encoders, EAS Decoders, and Attention Signal generating and receiving equipment used as part of the EAS are installed so that the monitoring and transmitting functions are available during the times that the stations or systems are in operation. On December 3, 2002, the EAS system used for KAOK(AM) and KAOK-FM was not properly functioning because receivers were not connected to the EAS Decoder to provide monitoring capability.

4. Section 73.49 of the Rules states that antenna towers having radio frequency potential at the base must be enclosed within effective locked fences or other enclosures. On December 3, 2002, the antenna tower for station KAOK(AM) was not enclosed within an effective fence or other enclosure.

5. Based on the evidence before us, we find Pittman Broadcasting willfully³ violated Sections 11.35(a) and 73.49 of the Rules by failing to maintain operational EAS equipment and failing to provide an effective locked fence enclosing the station's antenna tower.

6. Pursuant to Section 1.80(b)(4) of the Rules,⁴ the base forfeiture amount for EAS equipment not installed or operational is \$8,000, and the base forfeiture amount for AM tower fencing violations is \$7,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁵ Considering the entire record and applying the factors listed above, this case warrants a \$15,000 forfeiture.

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁶ and Sections 0.111, 0.311 and 1.80 of the Rules,⁷ Pittman Broadcasting Services, LLC is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of fifteen thousand dollars (\$15,000) for willful violation of Sections 11.35(a) and 73.49 of the Rules by failing to maintain operational Emergency Alert System ("EAS") equipment and failing to provide an effective locked fence enclosing the station's antenna tower.

8. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of

³ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

⁴ 47 C.F.R. § 1.80(b)(4).

⁵ 47 U.S.C. § 503(b)(2)(D).

⁶ 47 U.S.C. § 503(b).

⁷ 47 C.F.R. §§ 0.111, 0.311, 1.80.

the release date of this NAL, Pittman Broadcasting Services, LLC SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above. Requests for payment of the full amount of this NAL under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁸

10. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street S.W., Washington, DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE NAL/Acct. No. referenced above.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

12. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Technical & Public Safety Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC’s Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

13. IT IS FURTHER ORDERED THAT a copy of this NAL shall be sent by regular mail and Certified Mail Return Receipt Requested to Pittman Broadcasting Services, LLC, 307 South Jefferson, Covington, Louisiana 70433.

FEDERAL COMMUNICATIONS COMMISSION

⁸ See 47 C.F.R. § 1.1914.

James C. Hawkins
District Director, New Orleans Office
Enforcement Bureau

Attachment